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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,076	02/07/2005	Roland Kratzer	09086-00218-US	6579

23416 7590 07/31/2006

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EXAMINER
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SAMPLE, DAVID R

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,076	<b>Applicant(s)</b> KRATZER ET AL.	
	<b>Examiner</b> David Sample	<b>Art Unit</b> 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 1 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Any rejections and/or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Objections***

Claims 1 and 4 are objected to because of the following informalities:

Claim 1, line 2 of the subparagraph related to R<sup>1</sup> contains an extra “or” between alkoxy and halo;

Claim 1, line 2 of the subparagraph related to R<sup>2</sup> and R<sup>3</sup> contains an extra “or” between alkoxy and halo;

Claim 4, line 4 has an extra “or” after “cation.”

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bohnen et al. (WO 99/43717).

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This rejection is over WO 99/43717 because the reference qualifies as prior art under § 102(b), however, for convenience, the column and line numbers of the English language equivalent US 6,391,989 will be cited below.

Bohnen et al. discloses a catalyst that is formed by mixing dimethylsilanediylbis(2-methyl-4-phenyllindenyl)zirconium dichloride with trimethyl aluminum and subsequently N,N-dimethylanilinum bis(2,2'-octafluorobiphenyl)borate. See col. 16, lines 45-48. Subsequently, this mixture is added to a passivated SiO<sub>2</sub>. Id. The passivated SiO<sub>2</sub> is treated with TIBA (triisobutylaluminum). See col. 16, lines 20-30.

The dimethylsilanediylbis(2-methyl-4-phenyllindenyl)zirconium dichloride of the reference corresponds to component (A) of claim 1.

The trimethyl aluminum and N,N-dimethylanilinum bis(2,2'-octafluorobiphenyl)borate of the reference correspond to component (B) of claim 1.

The triisobutylaluminum added to the SiO<sub>2</sub> corresponds to component (C) of claim 1.

Instant claim 1 specifically recites that component (A) is mixed with a mixture of two of the compounds referred to as component (B), whereas the reference mixes component (A) with each compound sequentially. However, claim 1 does not specifically state that the process of the claim be employed. Rather, claim 1 refers to catalysts that are "obtainable" by the stated process. The process of Bohnen et al. results in a catalyst that is "obtainable" by the claimed method.

*Response to Arguments*

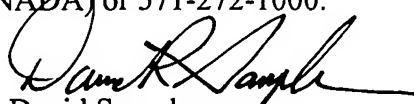
Applicant's arguments with respect to claims 1-7, 9-13 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
David Sample  
Primary Examiner  
Art Unit 1755